

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

LARRY RUEL, ET AL.,)	
Plaintiffs)	
)	
v.)	C.A. 07-cv-30136-MAP
)	
BAYSTATE MEDICAL CENTER., INC.,)	
ET AL.,)	
Defendants)	

MEMORANDUM AND ORDER REGARDING
DEFENDANT BAYSTATE'S MOTION FOR RECONSIDERATION
(Dkt. No. 97)

April 9, 2010

PONSOR, D.J.

This is an action seeking monetary damages for injuries suffered by Plaintiff Larry Ruel at the hands of a third party. The site of the attack was owned by Defendant South Campus Group, LLC ("SCG"), managed by Defendant Colebrook Management, LLC ("Colebrook"), and protected by Defendant Liberty Security Services, Inc. ("Liberty"). Three Defendants in the case, Baystate Medical Center, Inc., Baystate Health Systems, and Baystate Health System Health Services, Inc. (collectively "Baystate") were tenants on the premises where the incident occurred.

All Defendants moved for summary judgment, and on March 11, 2010 the court denied all the motions, finding that the facts, viewed in Plaintiffs' favor, were sufficient to support a verdict against all Defendants.

Following this ruling, two Defendants, SCG and Baystate, moved for reconsideration. (Dkt. Nos. 95 & 97). On March 31, 2010, counsel appeared for a final pretrial conference and for hearing on the two motions for reconsideration. On that day, the court orally denied SCG's motion. However, the court took under advisement Baystate's motion out of concern that there seemed no legal authority, or contractual support, for a finding of liability against a tenant for injuries suffered by an individual on the premises owned by another at the hands of a third party with no connection to the tenant. The court gave Plaintiffs until April 7, 2010 to file their opposition to Baystate's motion.

Having received no opposition from Plaintiffs, the court hereby ALLOWS Baystate's Motion for Reconsideration (Dkt. No. 97) and, further, ALLOWS Baystate's Motion for Summary Judgment (Dkt. No. 88). An examination of the law, and a careful review of the record in this case, reveals no basis for liability against Baystate. The authorities offered by Plaintiffs in opposition to the Motion for Summary Judgment of the other Defendants rely upon common law obligations placed upon the owner of the premises or upon specific contractual relations that do not pertain to Baystate here. In light of this, and in light of Plaintiffs' implicit concession in their failure to file any opposition to the Motion for

Reconsideration, it is clear that Baystate is entitled to summary judgment.

This case will go forward on April 26, 2010 on the claims by Plaintiffs against the remaining three Defendants, SCG, Colebrook, and Liberty. The trial had provisionally been postponed until April 27 to accommodate counsel for Baystate, but that is no longer necessary. Counsel will appear on April 26, 2010 at 9:00 a.m. for a conference prior to commencement of jury selection at 10:00 a.m. The trial will proceed thereafter from 9:00 a.m. to 1:00 p.m., April 26-30, 2010. Counsel are reminded that the court will not be available after 1:00 p.m. on April 30. If further proceedings are necessary, including jury deliberations, they will have to resume on Monday, May 3.

Proposed voir dire questions, proposed jury instructions and motions in limine will be filed no later than April 19, 2010. A report regarding settlement is due by April 9, 2010.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
United States District Judge